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10/079,674	02/19/2002	Maurizio Pilu	30012964-2	8655

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EXAMINER

BROCKETTI, JULIE K

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/079,674	<b>Applicant(s)</b> PILU, MAURIZIO	
	<b>Examiner</b> Julie K. Brockett	<b>Art Unit</b> 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 27-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 27-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claims 44 and 54 are objected to. Claim 44 states that it is dependent on claim 33, this was an error that was corrected in a previous amendment. The claim should be dependent on claim 43 (which was assumed for the purposes of this office action). Please correct again. Similarly claim 54 was previously corrected in a previous office action to be dependent on claim 53, therefore, claim 54 is not currently amended and should be identified as (previously presented). The claims should have been amended from the amendment dated November 22, 2004.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-25 and 27-57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed

invention. The newly amended claims now state the concept of using “real time” in viewing, copying and displaying. The only reference to real time in Applicant’s specification is on page 10 which states “Clearly the use of compression and decompression techniques minimises communication time over the Internet for example, thereby bringing the user ever closer to an effective real-time communication link to the remote party.” The specification clearly states that a user is brought close to “real-time” communication but does not achieve it. Furthermore, no where in the specification does it state that the gaming console synchronizes and copies in real time so that a user of the gaming console controls in real time viewing of the digitized photographic image data displayed on the remote display, such that a second user views in real time the digitized photographic image data on the remote display. The only reference to “real-time” is on page 10 of the specification and that doesn’t even state that “real-time” communication is even achieved. Therefore, the use of the limitation “real-time” in the specification is considered new matter.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent

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or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-3, 5-25, 27-31, 34-41, 43-49, 53, 55 and 57 are rejected under 35 U.S.C. 102(e) as being anticipated by Peppel, U.S. Patent No. 6,200,216 B1.** Peppel discloses a system and computer program for displaying photographic images. The system includes a gaming console for playing a video game (See Peppel col. 5 line 45). A communications means is provided for connecting the gaming console to a wide area network (See Peppel col. 7 lines 3-7). A domestic visual display unit displays at least one digitized photographic image data to a user of the gaming console (See Peppel col. 4 lines 61-64; Fig. 7). A permanent data store is connected to the wide area network. The permanent data store stores the digitized photographic image data and comprises transmission means for transmitting part or all of the digitized photographic image data to the gaming console (See Peppel col. 5 lines 55-57; col. 7 lines 4-6). A portable digital data store resides in the gaming console (See Peppel col. 11 lines 14-15). A viewing application program resides in the gaming console. The viewing application program comprises a communications program for receiving the digitized photographic image data from the permanent data store. The viewing application program is arranged to configure the gaming console to display the digitized photographic image data on the domestic visual display unit when the digitized photographic image data

has been received by the gaming console (See Peppel col. 6 lines 64-67; col. 7 lines 1-9). The system includes a remote gaming console, i.e. that of another player. A remote display is coupled to the remote gaming console and a remote communications means is used for connecting the remote gaming console to the wide area network (See Peppel Figs. 2, 6; col. 7 lines 41-45). For example, two users may be at different locations and each access the server from their individual computers; therefore, one can be considered local and the other remote. The gaming console and the remote gaming console communicate via the wide area network such that the remote gaming console synchronizes and copies in real time so that a user of the gaming console controls in real time viewing of the digitized photographic image data displayed on the remote display, and such that a second user views in real time the digitized photographic image data on a remote display (See Peppel col. 8 lines 48-57; col. 6 lines 56-57; col. 7 lines 8-26, 41-45; col. 8 lines 27-57) [claims 1, 19, 21, 48]. For example, a user at a local console can create a card and/or upload it onto the server for display or for trading/selling etc for a limited time. A second user at a remote console can then view the card based on the first user uploading the card for display in real time. Therefore, the second user can only display the card on their console if the first user has allowed access to the card by placing it in a trading area or an album, etc. and the card is able to be viewed at that limited time period, i.e. real time. The domestic visual display unit and the remote unit can comprise a television (See Peppel col. 5 line 49)

[claims 2, 34, 35]. The viewing application program is arranged to enable multiple images of the digitized photographic image data to be displayed to the user simultaneously and a gaming controller of the gaming console is arranged to enable the user to navigate through the multiple images (See Peppel col. 7 lines 9-10; col. 12 lines 49-64) [claim 3]. The viewing application program comprises a plurality of user-selectable digital effects algorithms for altering the presentation of the digitized photographic image data on the domestic visual display unit (See Peppel col. 10 lines 24-31) [claim 5]. The portable digital data store comprises a plurality of user-selectable viewing application programs each program providing a different algorithm for displaying the digitized photographic image data in a different way on the domestic visual display unit (See Peppel col. 6 lines 16-18) [claims 6, 19]. For example, the user can select to play a game, a game movie, a collection album, a trading sequence etc; thereby, the display of these different activities are different. Each program is arranged to provide a different photo enhancement of the digitized image data (See Peppel col. 11 lines 22-41) [claims 7, 20]. The communication program is arranged to transmit a user selection command to a remote party (See Peppel col. 8 lines 53-55) [claim 8]. The gaming console comprises means for receiving and digitizing a user's voice into voice data and the communications program is arranged to transmit the voice data over the wide area network to a remote party (See Peppel col. 4 lines 10-11) [claims 9, 36, 55]. The communications program is arranged to implement compression

of data to be transmitted and decompression of data received via the communications means (See Peppel col. 1 lines 60-62) [claims 10, 16, 23]. The communications program comprises an applet for enabling two-way communications between the gaming console and the remote party (See Peppel col. 8 lines 48-57) [claims 11, 24]. The applet is arranged to password protect access to part or all of the data to be transmitted by the communications means with the user inputting a password associated with the data to be transmitted (See Peppel col. 7 lines 4-7; col. 10 lines 31-35) [claim 12]. The received data is password protected and the applet is arranged to enable access to part or all of the received data once the user has input a correct password associated with the received data (See Peppel col. 10 lines 31-35) [claims 13, 18, 25, 41]. The remote gaming console comprises a remote digital data store, a remote viewing application program and a remote communications program for receiving the digitized photographic image data from the permanent data store via the wide area network. The remote viewing application program is arranged to configure the remote gaming console to display the digitized photographic image data on the remote display when the digitized photographic image data has been received by the remote gaming console (See Peppel col. 7 lines 3-26). For example, the remote gaming console can be identical to the local gaming console in terms of its setup. The remote gaming console comprises means for receiving and digitizing a third party's voice into voice data and the remote communications program is arranged to transmit the



voice data over the wide area network to the gaming console (See Peppel col. 4 lines 10-11) [claim 15]. The remote communications program comprises an applet for enabling two-way communications between another remote gaming console of a third party and the gaming console of the user (See Peppel col. 8 lines 48-57) [claim 17]. The gaming console can receive and digitize the second user's voice into voice data and the communications program is arranged to transmit the voice data over the wide area network to the first user (See Peppel col. 4 lines 10-11) [claims 22, 37, 45]. The transmitting can be over a telephone link or a modem (See Peppel col. 2 line 8; col. 14 lines 28-30) [claims 38, 39, 46, 47]. The digitized photographic image data is communicated to the remote gaming console via a compact disk (See Peppel col. 11 lines 14-15) [claims 27, 40]. The digitized photographic image data is communicated to the remote gaming console via the wide area network (See Peppel col. 5 lines 55-57) [claims 28, 49]. Multiple pre-captured photographic images are displayed on a local display using a local video gaming console in accordance with instructions from a user of the local video gaming console. The pre-captured photographic images are displayed on a remote display using a remote local video gaming console in accordance with instructions from the user of the local video gaming console. The local video gaming console and the remote gaming console communicate with each other such that the remote video gaming console synchronizes and copies in real time the way in which a user of the local video gaming console controls display of the pre-captured photographic

image on the local display, and such that the pre-captured photographic image is displayed in real time on the remote display in accordance with control of the local display (See Peppel col. 7 lines 3-26; col. 8 lines 27-57) [claims 29, 30, 43, 44, 53]. For example, a user at a local console can create a card and/or upload it onto the server for display, i.e. instructions, or for trading/selling etc. for a limited time period in real time. A second user at a remote console can then view the card in real time based on the first user uploading the card for display. Therefore, the second user can only display the card on their console if the first user has allowed access to the card by placing it in a trading area or an album, etc. The users can navigate between the pre-captured photographic image and the second pre-captured photographic image in accordance with the navigating instructions from the user of the local video gaming console. The navigated to pre-captured photo-graphic image is displayed on the remote display in accordance with the navigating instructions (See Peppel col. 7 lines 3-26) [claims 31, 57].

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 32, 33, 50, 51 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peppel, U.S. Patent No. 6,200,216 B1.** Peppel discloses receiving a selection instruction from the user of the local video gaming console selecting one of the plurality of images on the local display. A corresponding pre-photographic image is displayed and the image is also displayed on the remote display in accordance with the selection instruction (See Peppel col. 7 lines 3-26) [claims 33, 51, 54]. For example, a player can be browsing through their cards and select one for trading, the card that is selected is then displayed in the card trading area and a remote user can view the card. Peppel lacks in specifically disclosing that the images are thumbnail images. It would have been obvious to one of ordinary skill in the art to use thumbnail images. Thumbnail images are well known throughout the art and are used so that multiple pictures can be displayed on the same screen due to their small size [claims 4, 32, 50, 54]. It would have been obvious in Peppel to use thumbnail images so that multiple pictures could fit on the same display screen so that the user can view them simultaneously.

**Claims 42, 52 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peppel in view of Webb et al., U.S. Patent No. 6,325,756 B1.** Peppel lacks in disclosing displaying corresponding pointers on both displays. Webb teaches of displaying a pointer on a local display using the local console in accordance with instructions from the user at the local console.

A corresponding pointer is displayed on the remote display, wherein position of the pointer and position of the corresponding pointer correspond to each other in accordance with instructions from the user of the local console (See Webb col. 2 lines 13-22; col. 4 lines 52-67) [claims 42, 52, 56]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a pointer displayed on the local gaming console of Peppel correspond to a pointer at the remote gaming console. By having corresponding pointers, both users are able to understand what they are communication about. Consequently, in Peppel if corresponding pointers were used, the players would know exactly what card they were talking about with regards to card trades.

#### ***Response to Amendment***

It has been noted that claims 1, 19, 29, 43 and 53 have been amended.

#### ***Response to Arguments***

Applicant's arguments filed May 2, 2005 have been fully considered but they are not persuasive.

Applicant argues that the Oath/Declaration is sufficient. The Examiner agrees. Now that Applicant has clearly stated in his remarks that the country of citizenship represented by IT is Italy, the declaration is now accepted.

Applicant argues that they may use British English spellings. The Examiner agrees and has withdrawn the objections with regard to spellings.

Applicant argues that Peppel does not disclose, teach, or suggest the feature wherein “a remote gaming console synchronizes and copies in real time so that a user of the gaming console controls viewing in real time of the digitized photographic image data displayed on the remote display, and such at second user views in real time corresponding digitized photographic image data on the remote display”. Applicant further notes that at most Peppel discloses that “cards can be offered for sale at live, real time auctions with bids submitted by simultaneously connected users.” The Examiner disagrees and notes that Peppel does disclose copying in real time, controlling viewing in real time and displaying images in real time (See Peppel col. 8 lines 27-57). For example, a card may be put up for display on the Internet for a limited time period, i.e. 5 minutes. The card is put up in real time and secondary users see the card in real time and can copy the card in real time, i.e. for the 5 minutes it is displayed. The Examiner has supplied references with two definitions of “real time” which includes “of or relating to computer systems that update information at the same rate as they receive data, enabling them to direct or control a process such as an automatic pilot”. This is what Peppel does, a player puts up a card and the other players can see the information as soon as the card is put up on display. Furthermore, bids are submitted in real-time; as one person makes a bid another person can come by and outbid that person since the bids are being displayed in real time. Applicant uses the example of eBay and states that eBay system only allows the sellers to control viewing by

the potential buyers in that buyers are limited to viewing images as provided by the seller. Applicant further states that this process does not occur in real time, and in no way does the seller control viewing in real time of the images viewed by potential buyers. The Examiner agrees that Peppel's system is similar to E-bay but disagrees with Applicant's suggestion that E-bay does not show items in real-time. On the reference from TheFreeDictionary.com the first paragraph states that eBay uses real time in that people can "find real time items at low prices". Similarly, Peppel uses real time to allow players to view cards.

### ***Conclusion***

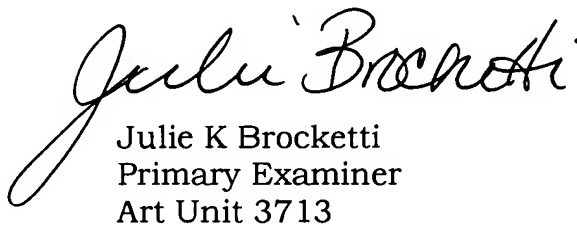
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Julie K Brockett  
Primary Examiner  
Art Unit 3713